

Application No.: 10/748095

Case No.: 59489US002

REMARKS

Reconsideration is requested.

RECEIVED  
CENTRAL FAX CENTER  
DEC 08 2006Status of Claims

Claims 1 to 19 are pending. No claims have been canceled, added, or amended.

Double Patenting Rejection

Claims 1 to 19 were rejected for obviousness-type double patenting over claims 1 to 33 of U.S. Patent No. 7,041,727 (Kubicek et al.)

Among the recitations in each of independent claims 1 and 15 is that the paint composition has a pigment volume concentration equal to or greater than its critical pigment volume concentration. The same recitation applies to all of the remaining claims which depend directly or ultimately from either claim 1 or 15.

In contrast, the claims in Kubicek et al. are directed to paint compositions having a pigment volume concentration less than their critical pigment volume concentration. See col. 1, line 65; col. 2, line 10; and col. 9, line 55, of the reference.

The paint compositions claimed in the present application are distinct from those claimed in Kubicek et al. Among other distinctions, paint compositions of the present invention have a pigment volume concentration that is equal to or greater than their critical pigment volume concentration. Many physical properties of paint change abruptly at the paint's critical pigment volume. For instance, see col. 9, lines 37 to 47, of Kubicek et al.

For these reasons, Applicants respectfully submit that each of claims 1 to 19 of the present application is patentably distinct over each of claims 1 to 33 of Kubicek et al., and that the rejection for obvious-type double patenting should be withdrawn.

RECEIVED  
CENTRAL FAX CENTER  
DEC 08 2006

Application No.: 10/748095

Case No.: 59489US002

**CONCLUSION**

In view of the above, it is submitted that the application is in condition for allowance.  
Allowance of claims 1 to 19 at an early date is solicited.

Respectfully submitted,

Dec 8, 2006  
Date

By: Robert H. Jordan  
Robert H. Jordan, Reg. No.: 31,973  
Telephone No.: 651-733-6866

Office of Intellectual Property Counsel  
3M Innovative Properties Company  
Facsimile No.: 651-736-3833